

EXHIBIT 3

Misha Boutilier

From: Misha Boutilier
Sent: Monday, July 10, 2023 8:36 PM
To: Roger L. McCleary; Blair Adams
Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin; Allison A. Jacobsen; Kim James; Melissa Pittmon; Sawnie A. McEntire; Brendan Carroll; Mazin Sbaiti; Brian Uhler; Jeffery Arnier; Mary Trainor; Michael Bloom; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt; Ultkin@akingump.com; Jewel Tewiah
Subject: Re: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

Roger,

Thank you for confirming. Plaintiffs and Brigade are also all signed off, and we will file the letter and proposed amended CMO shortly.

Best,

Misha

From: Roger L. McCleary <rmccleary@pmmlaw.com>
Sent: Monday, July 10, 2023 7:53 PM
To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Blair Adams <blairadams@quinnemanuel.com>
Cc: Jason.Hegt@lw.com <Jason.Hegt@lw.com>; rskibell@glennagre.com <rskibell@glennagre.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Mazin Sbaiti <MAS@sbaitilaw.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com <Alexis.Godfrey@lw.com>; kotwick@sewkis.com <kotwick@sewkis.com>; hooper@sewkis.com <hooper@sewkis.com>; hong@sewkis.com <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com <Ultkin@akingump.com>; Jewel Tewiah <jtewiah@glennagre.com>
Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

[EXTERNAL EMAIL from rmccleary@pmmlaw.com]

Misha,

You have permission to sign Sawnie's name or my name. We agree to the confirmation requested in Alexis's 12:36 pm ET email with the understanding and to the extent it relates to the timeliness of discovery requests served to date.

Regards, Roger.

Roger L. McCleary
Parsons McEntire McCleary PLLC
One Riverway, Suite 1800

Houston, TX 77056
Tel: (713) 960-7305
Fax: (832) 742-7387
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From: Mazin Sbaiti <MAS@sbaitilaw.com>
Sent: Monday, July 10, 2023 5:01 PM
To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Blair Adams <blairadams@quinnemanuel.com>
Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>
Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

You have mine.

From: Misha Boutilier <mishaboutilier@quinnemanuel.com>
Sent: Monday, July 10, 2023 5:01 PM
To: Roger L. McCleary <rmccleary@pmmlaw.com>; Blair Adams <blairadams@quinnemanuel.com>
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Subject: Re: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

Roger and Mazin,

We are fine with your proposed revisions.

Could you confirm that we have your consent to insert your signatures into and file the latest versions of the letter and CMO? I'm referring to the version of the letter you sent at 5:34 pm ET and the version of the CMO you sent at 11:48 am ET.

Could you also further confirm that, as per Brigade's request earlier today, you agree that all discovery served to date is timely? I'm referring to Alexis's 12:36 pm ET email.

Once we receive those confirmations from you, we'll proceed to file the letter and CMO.

Best,

Misha

From: Roger L. McCleary <rmccleary@pmmlaw.com>
Sent: Monday, July 10, 2023 5:34 PM
To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Blair Adams <blairadams@quinnemanuel.com>
Cc: Jason.Hegt@lw.com <Jason.Hegt@lw.com>; rskibell@glennagre.com <rskibell@glennagre.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Mazin Sbaiti <MAS@sbaitilaw.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com <Alexis.Godfrey@lw.com>; kotwick@sewkis.com <kotwick@sewkis.com>; hooper@sewkis.com <hooper@sewkis.com>; hong@sewkis.com <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com <Ultkin@akingump.com>; Jewel Tewiah <jtewiah@glennagre.com>
Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

[EXTERNAL EMAIL from rmccleary@pmmlaw.com]

Misha,

We have a couple minor highlighted revisions to the letter in the attached.

Regards, Roger.

Roger L. McCleary
Parsons McEntire McCleary PLLC
One Riverway, Suite 1800
Houston, TX 77056
Tel: (713) 960-7305
Fax: (832) 742-7387
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From: Misha Boutilier <mishaboutilier@quinnemanuel.com>
Sent: Monday, July 10, 2023 1:03 PM
To: Roger L. McCleary <rmccleary@pmmlaw.com>; Blair Adams <blairadams@quinnemanuel.com>
Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Mazin Sbaiti <MAS@sbaitilaw.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>
Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

Roger and Mazin,

We are fine with the revisions to the CMO.

We made some minor revisions to the second paragraph of the letter, which are visible in track changes in the attached. Please let us know if these revisions are acceptable to the DAF Parties and NexPoint.

Best,

Misha

From: Roger L. McCleary <rmccleary@pmmlaw.com>

Sent: Monday, July 10, 2023 11:48 AM

To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Blair Adams <blairadams@quinnemanuel.com>

Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Mazin Sbaiti <MAS@sbaitilaw.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

[EXTERNAL EMAIL from rmccleary@pmmlaw.com]

Misha,

Please see our highlighted revisions in the attached.

Regards, Roger.

Roger L. McCleary

Parsons McEntire McCleary PLLC

One Riverway, Suite 1800

Houston, TX 77056

Tel: (713) 960-7305

Fax: (832) 742-7387

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From: Mazin Sbaiti <MAS@sbaitilaw.com>

Sent: Monday, July 10, 2023 10:11 AM

To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Blair Adams <blairadams@quinnemanuel.com>

Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler

<brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

Roger and Sawnie will be sending you our collective documents. The schedule below has my agreement.
Mazin

From: Misha Boutilier <mishaboutilier@quinnemanuel.com>

Sent: Monday, July 10, 2023 9:05 AM

To: Roger L. McCleary <rmccleary@pmmlaw.com>; Blair Adams <blairadams@quinnemanuel.com>

Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Mazin Sbaiti <MAS@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

Roger,

Thank you for confirming. We are fine with the additional language you added to paragraph 8, as well as making July 17 the deponent availability exchange date.

Separately, I've attached an updated version of the letter with a few small edits (shown in track). Please let us know your suggestions to the letter and the CMO that I sent on Friday.

Finally, Mazin, could you please let us know if the below scheduling proposal is acceptable to you/NexPoint? We have not heard from you yet.

Best,

Misha

From: Roger L. McCleary <rmccleary@pmmlaw.com>

Sent: Friday, July 7, 2023 5:37 PM

To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Blair Adams <blairadams@quinnemanuel.com>

Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Mazin Sbaiti <MAS@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

[EXTERNAL EMAIL from rmccleary@pmmlaw.com]

Misha,

We will look at your Scheduling Proposal Letter to the Court and Proposed Amendments over the weekend and provide any suggestions on Monday. Otherwise, items 1 – 10 of the ACM Revised Proposal in your below email are fine, subject to the addition of the highlighted language in item 8, below. This is merely a clarification.

1. Close of fact discovery is extended from July 13, 2023 (*see* CMO (Dkt. 76) ¶ 7.a.) until September 15, 2023
2. Close of expert discovery is extended from August 27, 2023 (*see* CMO (Dkt. 76) ¶ 8.b.) until November 10, 2023
3. Experts:
 - a. Expert disclosure deadline for claim proponents (*see* CMO (Dkt. 76) ¶ 8.c.) is extended from July 13, 2023, until September 15, 2023
 - b. Expert disclosure deadline for claim opponent/rebuttal (*see* CMO (Dkt. 76) ¶ 8.c.) is extended from July 27, 2023, to October 10, 2023
4. The July 13, 2023, deadline to complete depositions pursuant to Fed. R. Civ., P. 30, 31 (*see* CMO (Dkt. 76) ¶ 7.e.) is extended to September 15, 2023
5. Deadline to file motions for summary judgment (*see* CMO (Dkt. 76) ¶ 10) is extended from September 26, 2023 until December 1, 2023
6. The parties agree to substantially complete document production in response to document requests served prior to July 7, 2023, at a date in July to be mutually determined and, in any event, by no later than July 31, 2023
7. The parties remain free to continue to pursue the discovery requests that they have served as of July 6, 2023, as well as to pursue any disputes concerning the same
8. The parties may serve additional discovery requests (including RFPs, RFAs, Local Rule 33.3(a) interrogatories, and contention interrogatories) concerning any new matters, allegations, or claims raised by any party's amended pleading served after April 14, 2023. Any such additional discovery requests must be served by July 21, 2023. Except as provided in paragraph 8, the parties may not serve any additional RFPs. However, this paragraph is subject to paragraphs 9 and 10 below.
9. Third party discovery remains open until the close of fact discovery on September 15, 2023
10. Discovery related to HCLOF remains open subject to resolution of any motions under rule 12(b) that HCLOF may seek to file

Also, we propose the parties agree to exchange the availability of the witnesses whose depositions have been requested by no later than July 17, 2023.

Thank you and regards, Roger.

Roger L. McCleary
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Houston, TX 77056
Tel: (713) 960-7305
Fax: (832) 742-7387
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From: Misha Boutilier <mishaboutilier@quinnemanuel.com>

Sent: Friday, July 7, 2023 2:41 PM

To: Roger L. McCleary <rmccleary@pmmlaw.com>; Blair Adams <blairadams@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Mazin Sbaiti <MAS@sbaitilaw.com>

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Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

Roger and Mazin,

Roger, thank you for your counterproposal. We are getting close. The ACM Plaintiffs have proposed revisions to Roger's counterproposal below in red. Roger and Mazin, please let us know if these are acceptable to you. Concerning paragraph 3, we proposed an additional two weeks for rebuttal expert disclosures to account for the Jewish high holidays. Concerning paragraph 4, we believe that the deadline to complete depositions should be the same as the close of fact discovery. Concerning paragraph 8, we agree to your proposal to make additional discovery concerning new matters raised by post-April 14, 2023 amended pleadings mutual, but wish to clarify that, except as provided in this paragraph, no additional RFPs may be served. We further proposed July 21 as a deadline to serve this discovery to ensure that the parties can serve discovery responses and make any additional productions before depositions close.

We have also prepared the attached joint letter to the court and revised CMO reflecting this proposal. Roger and Mazin, please let us know if the attached is acceptable to you and/or propose any edits to it.

Finally, consistent with the parties' agreement on the June 30 meet-and-confer to exchange deponents' availability in July, we propose that the parties agree to exchange the availability of their witnesses to be deposed by no later than July 14, 2023. Roger and Mazin, please let us know if this is acceptable to you.

ACM Revised Proposal

1. Close of fact discovery is extended from July 13, 2023 (see CMO (Dkt. 76) ¶ 7.a.) until September 15, 2023
2. Close of expert discovery is extended from August 27, 2023 (see CMO (Dkt. 76) ¶ 8.b.) until November 10, 2023
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 - a. Expert disclosure deadline for claim proponents (see CMO (Dkt. 76) ¶ 8.c.) is extended from July 13, 2023, until September 15, 2023
 - b. Expert disclosure deadline for claim opponent/rebuttal (see CMO (Dkt. 76) ¶ 8.c.) is extended from July 27, 2023, to October 10, 2023
4. The July 13, 2023, deadline to complete depositions pursuant to Fed. R. Civ., P. 30, 31 (see CMO (Dkt. 76) ¶ 7.e.) is extended to September 15, 2023
5. Deadline to file motions for summary judgment (see CMO (Dkt. 76) ¶ 10) is extended from September 26, 2023 until December 1, 2023
6. The parties agree to substantially complete document production in response to document requests served prior to July 7, 2023, at a date in July to be mutually determined and, in any event, by no later than July 31, 2023
7. The parties remain free to continue to pursue the discovery requests that they have served as of July 6, 2023, as well as to pursue any disputes concerning the same
8. The parties may serve additional discovery requests (including RFPs, RFAs, Local Rule 33.3(a) interrogatories, and contention interrogatories) concerning any new matters, allegations, or claims raised by any party's amended

pleading served after April 14, 2023. Any such additional discovery requests must be served by July 21, 2023. Except as provided in paragraph 8, the parties may not serve any additional RFPs.

9. Third party discovery remains open until the close of fact discovery on September 15, 2023
10. Discovery related to HCLOF remains open subject to resolution of any motions under rule 12(b) that HCLOF may seek to file

Best,

Misha

From: Roger L. McCleary <rmccleary@pmmlaw.com>

Sent: Friday, July 7, 2023 11:14 AM

To: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Blair Adams <blairadams@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Mazin Sbaiti <MAS@sbaitilaw.com>

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Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Extension of Deadlines

[EXTERNAL EMAIL from rmccleary@pmmlaw.com]

Misha,

Thank you for the proposal. Our response is as follows:

1. Close of fact discovery is extended from July 13, 2023 (*see* CMO (Dkt. 76) ¶ 7.a.) until September 15, 2023
2. Close of expert discovery is extended from August 27, 2023 (*see* CMO (Dkt. 76) ¶ 8.b.) until November 10, 2023
3. Experts:
 - Expert disclosure deadline for claim proponents (*see* CMO (Dkt. 76) ¶ 8.c.) is extended from July 13, 2023, until September 15, 2023
 - Expert disclosure deadline for claim opponent/rebuttal (*see* CMO (Dkt. 76) ¶ 8.c.) is extended from July 27, 2023, to September 29, 2023
4. The July 13, 2023, deadline to complete depositions pursuant to Fed. R. Civ., P. 30, 31 (*see* CMO (Dkt. 76) ¶ 7.e.) is extended to September 13, 2023
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8. The parties may serve additional discovery requests (including RFPs, RFAs, Local Rule 33.3(a) interrogatories, and contention interrogatories) concerning any new matters, allegations, or claims raised by any party's amended pleading served after April 14, 2023
9. Third party discovery remains open until the close of fact discovery on September 15, 2023
10. Discovery related to HCLOF remains open subject to resolution of any motions under rule 12(b) that HCLOF may seek to file

We look forward to hearing from you as soon as possible.

Regards, Roger.

Roger L. McCleary
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Houston, TX 77056
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www.pmmlaw.com

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From: Misha Boutilier <mishaboutilier@quinnemanuel.com>
Sent: Thursday, July 6, 2023 5:08 PM
To: Blair Adams <blairadams@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Mazin Sbaiti <MAS@sbaitilaw.com>
Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com; Jewel Tewiah <jtewiah@glennagre.com>
Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

Counsel,

The ACM Plaintiffs make the following scheduling proposal. Please let us know as soon as possible if this is acceptable to you and if you have any comments or proposed edits, as we would like to file a joint stipulation with the court tomorrow so that the court can enter the stipulation before the July 13, 2023 fact discovery deadline expires. We are preparing that stipulation, which reflects our below proposal, and will circulate it shortly. We will adjust the stipulation as necessary to reflect any further changes the parties agree on.

Scheduling Proposal

1. Close of fact discovery is extended from July 13, 2023 until September 15, 2023
2. Close of expert discovery is extended from August 27, 2023 until November 10, 2023
3. Deadline to file motions from summary judgment is extended from September 26, 2023 until December 1, 2023
4. The already expired deadlines to serve contention interrogatories, RFAs, and Local Rule 33.3(a) interrogatories (see CMO (Dkt. 76) ¶¶ 7(c), (d), (f)) are not modified or extended, subject to Paragraph 8
5. No new RFPs may be served, subject to Paragraph 8
6. The parties agree to substantially complete document discovery at a date in July to be mutually determined and, in any event, by no later than July 31
7. The parties remain free to continue to pursue the discovery requests that they have served as of July 6, 2023, as well as to pursue any disputes concerning the same

8. Plaintiffs may serve additional discovery requests (including RFPs, RFAs, Local Rule 33.3(a) interrogatories, and contention interrogatories) concerning any new matters, allegations, or claims raised by any Defendant's amended pleading served after April 14, 2023
9. Third party discovery remains open until the close of fact discovery on September 15, 2023

Best,

Misha

From: Blair Adams <blairadams@quinnemanuel.com>

Sent: Wednesday, June 28, 2023 11:49 AM

To: Sawnie A. McEntire <smcentire@pmmlaw.com>; Mazin Sbaiti <MAS@sbaitilaw.com>

Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Misha Boutilier <mishaboutilier@quinnemanuel.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

That works for me.

Blair Adams

Partner

Quinn Emanuel Urquhart & Sullivan, LLP

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New York, NY 10010
212-849-7615 Direct
212-849-7000 Main Office Number
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From: Sawnie A. McEntire <smcentire@pmmlaw.com>

Sent: Tuesday, June 27, 2023 8:49 PM

To: Mazin Sbaiti <MAS@sbaitilaw.com>

Cc: Jason.Hegt@lw.com; rskibell@glennagre.com; Blair Adams <blairadams@quinnemanuel.com>; Misha Boutilier <mishaboutilier@quinnemanuel.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com

Subject: Re: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

[EXTERNAL EMAIL from smcentire@pmmlaw.com]

Yes.

Sent from my iPhone

On Jun 27, 2023, at 5:18 PM, Mazin Sbaiti <MAS@sbaitilaw.com> wrote:

130 cdt Friday work for everyone?

From: Jason.Hegt@lw.com <Jason.Hegt@lw.com>

Sent: Tuesday, June 27, 2023 5:07 PM

To: Mazin Sbaiti <MAS@sbaitilaw.com>; smcentire@pmmlaw.com; RSkibell@glennagre.com; blairadams@quinnemanuel.com

Cc: mishaboutilier@quinnemanuel.com; rmccleary@pmmlaw.com; Griffin S. Rubin <GSR@sbaitilaw.com>; AJacobsen@pmmlaw.com; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; brendancarroll@quinnemanuel.com; brianuhler@quinnemanuel.com; jefferyarnier@quinnemanuel.com; marytrainor@quinnemanuel.com; michaelbloom@quinnemanuel.com; Alexis.Godfrey@lw.com; kotwick@sewkis.com; hooper@sewkis.com; hong@sewkis.com; jonpickhardt@quinnemanuel.com; Ultkin@akingump.com

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

The Friday times work for me.

Jason C. Hegt

LATHAM & WATKINS LLP

1271 Avenue of the Americas | New York, NY 10020

D: +1.212.906.1686 | M: +1.914.396.7134

From: Mazin Sbaiti <MAS@sbaitilaw.com>

Sent: Tuesday, June 27, 2023 3:40 PM

To: Sawnie A. McEntire <smcentire@pmmlaw.com>; Reid Skibell <RSkibell@glennagre.com>; Blair Adams <blairadams@quinnemanuel.com>

Cc: Misha Boutillier <mishaboutilier@quinnemanuel.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Hegt, Jason (NY) <Jason.Hegt@lw.com>; Kellert Godfrey, Alexis (NY) <Alexis.Godfrey@lw.com>; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com

Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

How about tomorrow afternoon or Friday?

I am generally avail. Between 3 and 5 tomorrow. Also available between 1 and 3 Friday (both cdt).

Mazin

From: Sawnie A. McEntire <smcentire@pmmlaw.com>
Sent: Tuesday, June 27, 2023 2:38 PM
To: Mazin Sbaiti <MAS@sbaitilaw.com>; Reid Skibell <RSkibell@glennagre.com>; Blair Adams <blairadams@quinnemanuel.com>
Cc: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Jason.Hegt@lw.com; Alexis.Kellert@lw.com; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com
Subject: RE: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

Please suggest a date and time.

From: Mazin Sbaiti <MAS@sbaitilaw.com>
Sent: Tuesday, June 27, 2023 2:31 PM
To: Reid Skibell <RSkibell@glennagre.com>; Blair Adams <blairadams@quinnemanuel.com>
Cc: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Jason.Hegt@lw.com; Alexis.Kellert@lw.com; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com
Subject: [EXTERNAL] RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

I suggest we all get on a call tomorrow or the day after to discuss (1) scheduling depositions and (2) general schedule.

The ad hoc way we've been doing it just has too many pitfalls.

Mazin

From: Reid Skibell <RSkibell@glennagre.com>
Sent: Monday, June 26, 2023 2:58 PM
To: Blair Adams <blairadams@quinnemanuel.com>; Mazin Sbaiti <MAS@sbaitilaw.com>
Cc: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Jason.Hegt@lw.com; Alexis.Kellert@lw.com; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt

<jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com

Subject: RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

Hi All,

It seems increasingly apparent that getting depositions scheduled is going to be difficult given the summer travel plans of everyone involved in this matter. The best way to address this situation, in our view, is to agree to a schedule that will give the parties some flexibility. We propose moving the deadline for fact discovery to September 8, the deadline for expert discovery to October 13, and have a status conference in mid-November to discuss dispositive briefing. The expert discovery deadline also reflects the fact that the High Holidays in mid to late September will be problematic for scheduling.

Please let us know your thoughts.

Thanks,

Reid

Reid Skibell

W: 212.970.1610

M: 917.293.0542

rskibell@glennagre.com

<image001.jpg>

1185 Avenue of the Americas
New York, NY 10036

From: Blair Adams <blairadams@quinnemanuel.com>

Sent: Monday, June 19, 2023 1:16 PM

To: Mazin Sbaiti <MAS@sbaitilaw.com>

Cc: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Reid Skibell <RSkibell@glennagre.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Jason.Hegt@lw.com; Alexis.Kellert@lw.com; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com

Subject: RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

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Mazin,

As we had discussed, we may need to seek a brief extension of the schedule to accommodate depositions. Please let us know when Mr. Dondero is available after July 13.

I am checking with the team on July 14, 2023 for Mr. Covitz and will come back to you.

Best,
Blair

Blair Adams
Partner

Quinn Emanuel Urquhart & Sullivan, LLP

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New York, NY 10010
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From: Mazin Sbaiti <MAS@sbaitilaw.com>

Sent: Monday, June 19, 2023 12:47 PM

To: Blair Adams <blairadams@quinnemanuel.com>

Cc: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Reid Skibell <RSkibell@glennagre.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Jason.Hegt@lw.com; Alexis.Kellert@lw.com; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com

Subject: RE: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

[EXTERNAL EMAIL from mas@sbaitilaw.com]

Counsel,

July 11th was the only date Mr. Dondero is available that week or the week before.

I also spoke to Mr. Covitz, he has to address some things before I can officially accept service, but he did tell me his only available date right now is July 14th, after which he leaves for three weeks. I will be able to confirm tomorrow I believe that I can accept service for him but we will need to plan for his depo to be July 14th.

I told you I was concerned about vacation schedules stacking up. I will

Mazin

From: Blair Adams <blairadams@quinnemanuel.com>
Sent: Friday, June 16, 2023 11:20 PM
To: Mazin Sbaiti <MAS@sbaitilaw.com>
Cc: Misha Boutilier <mishaboutilier@quinnemanuel.com>; Sawnie A. McEntire <smcentire@pmmlaw.com>; Roger L. McCleary <rmccleary@pmmlaw.com>; Griffin S. Rubin <GSR@sbaitilaw.com>; Reid Skibell <RSkibell@glennagre.com>; Allison A. Jacobsen <AJacobsen@pmmlaw.com>; Kim James <KRJ@sbaitilaw.com>; Melissa Pittmon <MGP@sbaitilaw.com>; Brendan Carroll <brendancarroll@quinnemanuel.com>; Brian Uhler <brianuhler@quinnemanuel.com>; Jeffery Arnier <jefferyarnier@quinnemanuel.com>; Mary Trainor <marytrainor@quinnemanuel.com>; Michael Bloom <michaelbloom@quinnemanuel.com>; Jason.Hegt@lw.com; Alexis.Kellert@lw.com; Kotwick, Mark D. <kotwick@sewkis.com>; hooper@sewkis.com; Hong, Julie <hong@sewkis.com>; Jon Pickhardt <jonpickhardt@quinnemanuel.com>; Ultkin@akingump.com
Subject: Re: U.S. Bank, NA et al v. DAF et al., No. 1:21-cv-11059 (S.D.N.Y.): Plaintiffs' Notices of Depositions & Deposition Subpoenas

July 11 won't work unfortunately. I have another deposition that day that cannot be moved. Please let us know about alternative dates.

Sent from my iPhone

On Jun 16, 2023, at 5:46 PM, Mazin Sbaiti <MAS@sbaitilaw.com> wrote:

[EXTERNAL EMAIL from mas@sbaitilaw.com]

Mr Dondero has limited availability. We are holding July 11 at our offices. Please confirm.

Sent from my iPhone

> On Jun 16, 2023, at 10:33 PM, Misha Boutilier <mishaboutilier@quinnemanuel.com> wrote:

>

> Mazin and Roger,

>

> Please find attached: (1) Plaintiffs' notices of deposition for Mark Patrick and James Dondero, and (2) Plaintiffs' notices of deposition subpoenas to Grant Scott and Hunter Covitz. Plaintiffs expect to serve Rule 30(b)(6) deposition notices to NexPoint, DAF, and CLOH on Monday, June 19.

>

> Mazin, we understand that, as previously discussed, you are reaching out to Mr. Covitz to seek authorization to accept service of the deposition subpoena on his behalf. Please let us know whether you are authorized to accept service by Tuesday, June 20. Roger, as Mr. Scott is the former managing member of DAF, please let us know by Tuesday, June 20 whether you will accept service of the deposition subpoena to Mr. Scott.

>

> Best,

>

> Misha

>

> Misha Boutilier

> Associate
> Quinn Emanuel Urquhart & Sullivan, LLP
>
> 51 Madison Avenue, 22nd Floor
> New York, NY 10010
> 212-849-7559 Direct
> mishaboutilier@quinnemanuel.com<<mailto:mishaboutilier@quinnemanuel.com>>
> www.quinnemanuel.com<<http://www.quinnemanuel.com>>
>

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